

PASSING OF JUDGE ERNEST A.  
LOVELESS

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2007

Mr. HOYER. Madam Speaker, I rise today to honor the life and work of a dear friend of mine, Judge Ernest Loveless, and to offer my condolences to his family on his passing.

In the State of Maryland, few judges commanded more respect than Judge Loveless. First appointed to the 7th Judicial Circuit in 1960, Judge Loveless rose to the position of Chief judge in 1976. Serving on the bench until his retirement in 1992, Judge Loveless left behind a legacy of fair rulings and a more effective and efficient court.

During his 32 years on the 7th Circuit, Judge Loveless became known for his management skills. As the populations of Prince George's County and southern Maryland grew in the 1970s, Judge Loveless recognized the need to update the court's systems to better enable it to handle the increased caseload. He succeeded in installing new computer systems, and he made other necessary changes to help the 7th Circuit keep pace with the changing times.

Known across our State as an expert on juvenile law, Judge Loveless presided over thousands of adoption cases, even adopting two children of his own. He had the foresight to hire a resident psychologist to assist with family law matters, a valuable asset to the court and the cases it handles.

On a personal note, I believe it was clear to all who knew him that serving others was a deeply held value for Judge Loveless. Before becoming a judge, he served our Nation proudly in the Navy during World War II, and he then went on to serve the people of Maryland in the House of Delegates from 1954 to 1960. He was active in several civic organizations in Clinton, MD, and he continued to contribute to the community throughout his life.

Madam Speaker, Judge Loveless was a good and honest man who lived an honorable life, and he will long be remembered in southern Maryland and Prince George's County for his devotion, his knowledge of the law, and his fairness. I join countless Marylanders whose lives were touched by Judge Loveless in sending my deepest sympathies to his family and friends.

### INTRODUCTION OF PREPAID DERIVATIVES BILL

### HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2007

Mr. NEAL of Massachusetts. Madam Speaker, I rise today to introduce legislation addressing the taxation of prepaid derivative contracts. The appropriate tax treatment of financial products is ever evolving, just as the market for these products is. Occasionally, Congress or the Treasury must step in and clarify how these new offerings should be treated under the tax code. And my bill today will do that.

Recently, a new product called Exchange Traded Notes, has caught the attention of reg-

ulators and investors. The main benefit of these notes is their tax treatment. Issuers have advised buyers that these interests receive almost unlimited tax deferral on any gain earned. And, they advise that even when the gain is recognized at the point that the note is sold or redeemed, it is taxed as long-term capital gain and not ordinary income. These notes can run as long as 30 years and track an exchange rate, index, or commodity.

So, with almost unlimited tax deferral, it seems that many other investments would pale in comparison. Already, many investors have caught on. These exchange-traded notes have garnered \$4 billion of investment in a very short period of time. Some argue that this tax treatment is justified, as holders of these notes have some credit risk. If the issuer goes under, the holder may not get paid.

But this favorable tax treatment has not gone without notice. In a Tax Notes magazine article aptly titled, "Too Good To Be True?" one practitioner called this tax treatment, "The Wild West of the tax law." And one columnist in the Washington Post likened this new tax sheltering opportunity as opening "Pandora's Tax Box." It is important to note that this favorable tax treatment is premised on the opinion of one law firm.

More recently, Treasury has stepped in to clarify that Exchange Traded Notes tied to foreign currencies are debt and do generate taxable income to investors. In a companion notice, Treasury asked for comments on whether holders of other prepaid forward contracts should be required to accrue income during the term of the contract. It is possible that Treasury will produce guidance providing appropriate clarity in this market, but in the interim, I believe legislative action is warranted.

The legislation that I am filing today provides rules for the tax treatment of prepaid derivative contracts, which includes Exchange Traded Notes. Holders of such instruments will be required to include as interest income each year an amount determined by reference to a short-term interest rate. The basis in such contract would be adjusted by any income inclusion so that at disposition, any gain or loss would be properly accounted for just as it would be with any other investment receiving annual payments.

In past Congresses, I have pursued legislation to curb vehicles providing unlimited tax deferral to investors, such as swap funds. I believe it is important that our tax laws reach instances where interest is earned or gain recognized, especially where the products are complex or lack transparency. The legislation that I am filing today takes another step in that direction. But I welcome constructive comments from practitioners on both sides of this issue. Above all, if we amend the tax code, we want to get it right the first time.

I look forward to discussing this complex issue with my colleagues in the New Year and seeking their support for this bill.

H.R. 2640

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2007

Mr. CONYERS. Madam Speaker, this bill makes important changes to the national in-

stant check system, designed to help States identify and prevent convicted felons and other dangerous individuals from owning firearms.

As it currently stands, millions of criminal records are not accessible by the instant check system, and millions of additional records fall through the cracks as a result of backlogs and other problems. The bill will help cure these problems by providing the resources and incentives needed to modernize the system and ensure that the records are up to date.

Improving and enhancing the instant check system will help prevent future tragedies such as the Virginia Tech shootings earlier this year, where there is clear reason to know, after due process, that the individual in question should not own a gun.

The House has passed this bill in each of the last two Congresses. Now the Senate has passed it, with changes dealing with the procedures for restoring gun ownership rights.

While I continue to have reservations about the new process for restoring gun ownership rights to individuals previously diagnosed with mental illness, and will be monitoring its implementation very closely, passage of the underlying bill is extremely important.

I want to again thank my good friends CAROLYN MCCARTHY and JOHN DINGELL, as well as RICK BOUCHER from the Judiciary Committee, and LAMAR SMITH, our Ranking Member, for all their work on this important matter.

I urge my colleagues to support this legislation.

### RECOGNIZING THE DISTINGUISHED CAREER OF DR. RICHARD CHESTEEN

### HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 19, 2007

Mr. TANNER. Madam Speaker, I rise today to recognize the long, distinguished career of an esteemed educator, a dedicated public servant, a tireless community leader and my friend, Richard Chesteen, PhD.

Richard's academic career began almost 50 years ago. He earned his Associate's Degree from Holmes Junior College, his Bachelor's Degree from Delta State University, then his Master's Degree and Doctoral Degree in Political Science at the University of Mississippi. We have been fortunate to have him as a professor and faculty leader at the University of Tennessee at Martin, in the heart of northwest Tennessee, since 1969.

Dr. Chesteen's leadership has always stretched beyond the edge of the UTM campus. He has held active positions in scores of government and political organizations in Weakley and Obion counties and throughout Tennessee. Richard has served on the Obion County Commission, the Obion County Regional Planning Commission and the Obion County Democratic Party.

Statewide, Richard was a candidate for governor in the 1994 primary, where he earned a reputation for working on thoughtful solutions toward the problems facing our state at that time. Over the years, he has also served on the Tennessee Advisory Commission on Intergovernmental Relations, the Tennessee County Services Association and Tennessee Cares,